

REMARKS/ARGUMENTS

Claims 1-9 are pending in the present application and are subject to restriction and/or election requirement in the outstanding Official Action. Claims 10 and 11 have been canceled without prejudice, claim 2 has been amended and newly written claims 12-17 added to this applicaiton. Accordingly, claims 1-9 and 12-17 are the only claims remaining in this application.

The Examiner's acknowledgment of Applicant's claim for foreign priority is very much appreciated. It is noted that, as set forth on the filing receipt in this case, this application is a §371 national phase entry of PCT/GB03/05557. Accordingly, as noted in the MPEP, there is no applicability of 35 U.S.C. §121 to national phase entries of PCT applications.

On page 2, section 1, the Examiner suggests that "restriction is required under 35 U.S.C. §§121 and 372." The Examiner's contention is incorrect and, as noted above, the Patent Cooperation Treaty specifically prevents any applicability of 35 U.S.C. §121 to a national phase entry of a PCT application. The sole basis for restriction is under §372 and therefore, because it appears the Examiner has applied the wrong criteria, reconsideration and re-issuance of a proper restriction requirement is respectfully requested.

Under the proper application of PCT rule 13.2 under 35 U.S.C. §372, election is only possible if the two groups do not relate to a "single general inventive concept" under PCT rule 13.1. Rule 13.2 specifies that the two groups must lack "the same or corresponding special technical features." The Examiner suggests that the common technical feature of Groups 1 and 2 is "the curing of a composite article in a temperature controlled vessel while monitoring the temperature of at least a part of the article with a remote infrared temperature sensor" and is common to the two groups.

However, the Examiner makes a finding that the recited common technical feature does not define over the prior art, i.e., Charbonnet (U.S. Patent No. 5,209,881). This contention by the Examiner is respectfully traversed because Charbonnet does not appear to disclose the special technical feature common to Groups 1 and 2 as noted in the Restriction Requirement.

For example, Charbonnet at Figure 1 discloses (as the Examiner notes in column 3, lines 19-53) oven 14 which is analogous to the “temperature controlled vessel” in Applicant’s claims. Applicant’s independent claims 1 and 8 both require the taking of temperature readings of a portion of the material by an “infra-red temperature measuring device located remotely from the component.” It appears that Charbonnet does not disclose “an infra-red temperature measuring device located remotely from the component.” The cited portion of Charbonnet, i.e., column 3, lines 19-53 does not specifically identify an “infra-red temperature measuring device located remotely from the component.”

While Charbonnet does disclose the possibility of “an infrared pyrometer” which is some 12 to 18 inches from the panel surface, it is not clear that this meets the claim language of “infra-red temperature measuring device located remotely from the component.” The cited portion of the specification at column 3, lines 51-53, discloses “non-contact devices” but does not necessarily teach “an infra-red temperature measuring device located remotely from the component.”

Applicant respectfully traverses the Restriction Requirement because Charbonnet does not clearly disclose the “common technical feature” of both Groups 1 and 2. Notwithstanding the problem with the prior art, Applicant provisionally elects the subject matter of Group 2, i.e., claims 8 and 9, drawn to a method for curing composite materials.

Applicant has submitted newly written claims 13-17 also directed to a method for curing composite materials while independent claim 12 corresponds to Group 1, i.e., an apparatus for curing composite materials. Inasmuch as Applicant has elected claims 8, 9, and 13-17 as corresponding to Group 2, even though with traverse, Applicant has met the restriction requirements.

The Examiner's indication that claim 1 is "generic" is also very much appreciated. However claim 1 has not been elected and Applicant presumes that the Examiner meant that claim 1 was generic to the species claims 3 and 4 in Group 1, i.e., the non-elected group. However, should the Examiner believe that newly written claim 13 (corresponding to elected Group 2) is correspondingly generic, it will be noted that Applicant has included claim 14 with the measuring device located "outside the vessel" and that there are no other claims specifying the device located "within the vessel." Therefore, should claim 13 be considered generic, there is no recitation of two or more than one species of the generic invention.

Accordingly, and in view of the above, Applicant elects, with traverse, for further prosecution, Group 2 claims 8, 9 and 13-17 directed to a method for curing composite materials.

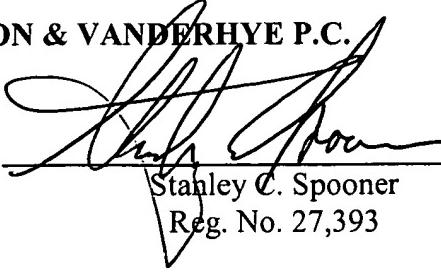
Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that pending claims 1-9 and 12-17 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

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Appl. No. 10/539,286
August 27, 2008

Respectfully submitted,

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